IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4508 of 2005

Between:

MPR Refractories Limited, Flat No. 303, Everest Block,
Aditya Enclave, Ameerpet, Hyderabad - 500 038
Rep by its Finance Manager, Mr. K. Srinivasa Rao, S/o. K. Krishna Rao, aged 51 years

..... PETITIONER

AND

The Assistant Commissioner of Customs, Customs House, Port Area, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, direction or order especially in the nature of Writ of Mandamus declaring the detention notice dated 04-2-2005, under Section 142(1) (a), (b) of the Customs Act, 1962 detaining the consignments of 106.82 MTs of Chinese Calcined Round Kiln Bauxite and 201.63 MTs of DBM as illegal, arbitrary and

unlawful.

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY S.C. FOR C.G.

The Court at admission stage made the following:

O R D E R (Per TCSR,J)

On a detention notice dated 4.2.2005, the consignments of the petitioner, namely, 106.82 Mts. of Chinese Calcined Round Kiln Bauxite and 201.603 Mts. of DBM are detained for the arrears of tax computed from the petitioner in an amount of Rs.11,83,989/-. Questioning the said demand, petitioner filed an appeal and the same was disposed of in favour of the Revenue. Assailing the said order, petitioner filed a second appeal before the appropriate authority, accompanied by an application for stay, pending disposal of the appeal. It is now the representation of the petitioner that though the stay application is coming up for hearing, without waiting for its disposal, respondents herein detained the goods of the petitioner and, therefore, the order of detention is illegal and arbitrary.

2. Having regard to the fact that second appeal is pending before the appropriate authority, we are not inclined to advert to the merits of the case as regards the liability or otherwise of the petitioner for payment of the tax. Having regard to the fact that stay application is pending before the authorities, hoping the same would be disposed of as expeditiously as possible, we are inclined to make only a temporary arrangement, pending disposal of the stay application.

3. We dispose of the instant writ petition with the following directions:

“On the petitioner paying a sum of Rs.2,00,000/- (Rupees two lakhs only), which almost constitutes about fifty per cent of the total disputed tax, within 31.03.2005, the respondents shall release the consignments in favour of the petitioner and the petitioner shall furnish an undertaking that it will not alienate or otherwise dispose of the consignments until further orders by the Customs Excise and Service Tax Appellate Tribunal.

We direct the Tribunal to disposal of the stay petition as expeditiously as possible, within a period of three weeks from the date of receipt of a copy of this order.”

4. No order as to costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

Note: C.C. on priority basis.

B/O

AVS/RNS

DATE:10.03.2005

To

1. The Assistant Commissioner of Customs,

Customs House, Port Area, Visakhapatnam.

2. Two CD copies.